

Once again it is clear from the immediate context that Secretary Babbitt's testimony is by no means an admission of an intention to deceive. He initially refuses to accept the insinuation of the questioner, suggesting that it would be "more accurate" to say that he was focused on "the Ickes thing, on the underlying thing," i.e. whether Ickes had, in fact, pressured Babbitt. His use of the word "oblique" (he did not consult a dictionary) is at most merely an acknowledgment *that he may have* elected not to advertise more about the conversation with Eckstein than he honestly believed McCain's inquiry called for.

Example: The Report states that "Babbitt does not deny (nor does he admit)" that he had reasons to conceal the details of his conversations with Eckstein "at the time he signed his response to Sen. McCain." (Report at 480 n.860.) It adds that he "refused under oath to state that he did not mislead McCain in order to stave off further investigation by McCain about the role of Ickes and the White House in the Hudson casino decision." (*Id.* (citing Babbitt Grand Jury Test. at 220, 230).)

These comments appear to be based on the unrealistic assumption that a grand jury witness must be alert to every damning insinuation in every clause of a prosecutor's question and must immediately snuff it out, or he fails to do so at his peril. That is unfair. In fact, Babbitt has emphatically denied all suggestions that he intended to mislead McCain. (Babbitt Thompson Comm. Test. at 124; Babbitt Grand Jury Test. at 220-22.) He explained his innocent intentions in the very colloquies that are excerpted in the Report. (Babbitt Grand Jury Test. at 220-22; 229-31.) If, as he repeatedly has testified, he did not intend to mislead McCain, then it follows that he did not intend to mislead McCain for *any* purpose, including the purpose of staving off further